

UNITED STATES DISTRICT COURT

for the

Western District of OregonCivil Division

Case No.

3:23-cv-329-MO

(to be filled in by the Clerk's Office)

Torio Holmes

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Jury Trial: (check one)

☒ Yes☐ NoGreenbrier Companies c/o Greenbrier Gunderson
Marine LLC

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

| | |
|--------------------|----------------------|
| Name | Torio Holmes |
| Street Address | 4235 Ohio Avenue |
| City and County | Gulfport Harrison |
| State and Zip Code | Mississippi 39501 |
| Telephone Number | 228-223-2653 |
| E-mail Address | yogrills55@gmail.com |

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

| | |
|----------------------------------|--|
| Name | Greenbrier Companies c/o Greenbrier Gunderson Marine |
| Job or Title <i>(if known)</i> | Alex M Duarte, Martin R Baker |
| Street Address | 4350 NW Front Ave, |
| City and County | Portland Multnomah |
| State and Zip Code | Oregon 97210 |
| Telephone Number | (503) 972-5700 |
| E-mail Address <i>(if known)</i> | Alex.duarte@gbrx.com Martin.baker@gbrx.com |

Defendant No. 2

| | |
|----------------------------------|--|
| Name | |
| Job or Title <i>(if known)</i> | |
| Street Address | |
| City and County | |
| State and Zip Code | |
| Telephone Number | |
| E-mail Address <i>(if known)</i> | |

Defendant No. 3

| | |
|----------------------------------|--|
| Name | |
| Job or Title <i>(if known)</i> | |
| Street Address | |
| City and County | |
| State and Zip Code | |
| Telephone Number | |
| E-mail Address <i>(if known)</i> | |

Defendant No. 4

| | |
|----------------------------------|--|
| Name | |
| Job or Title <i>(if known)</i> | |
| Street Address | |
| City and County | |
| State and Zip Code | |
| Telephone Number | |
| E-mail Address <i>(if known)</i> | |

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

| | |
|--------------------|----------------------|
| Name | Greenbrier Gunderson |
| Street Address | 4350 NW Front Ave |
| City and County | Portland Multnomah |
| State and Zip Code | Oregon 97210 |
| Telephone Number | (503) 972-5700 |

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to *(check all that apply)*:



Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)



Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)



Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)



Other federal law *(specify the federal law)*:

Occupational Safety and Health Act of 1970 (the Act), Tort Law



Relevant state law *(specify, if known)*:



Relevant city or county law *(specify, if known)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

- ☐ Failure to hire me.
- ☒ Termination of my employment.
- ☐ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☒ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☒ Other acts *(specify)*: Defamation, Tort

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

03/01/2022 - 03/23/2022

C. I believe that defendant(s) *(check one)*:

- ☒ is/are still committing these acts against me.
- ☐ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☒ race blacks were told to enter vessel without protective gear
- ☐ color _____
- ☐ gender/sex _____
- ☐ religion _____
- ☐ national origin _____
- ☐ age *(year of birth)* _____ *(only when asserting a claim of age discrimination.)*
- ☐ disability or perceived disability *(specify disability)* _____

E. The facts of my case are as follows. Attach additional pages if needed.

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

I started employment on 02/28 2022 at Greenbrier Gunderson Marine. During these times of employment we were told to enter a Vessel without safety devices. These devices was mandatory. The devices were organic air supply respirators and proper ventilation. On day of March 23, 2022 we were told to enter the vessels which consist of four black males while white males worked on outside. Before entering this Vessel Greenbrier Gunderson employees removed red danger tape. On this day that was a harsh and hostile environment i became ill. Do to disparate terms i was force to an constructive discharge.

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

08/26/2022- Torio Holmes

- B. The Equal Employment Opportunity Commission *(check one)*:

☐

has not issued a Notice of Right to Sue letter.

☒

issued a Notice of Right to Sue letter, which I received on *(date)*

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Pro Se 7 (Rev. 12/16) Complaint for Employment Discrimination

I am seekin compensation for permanent disability 5 million dollars, tort damages 5 million dollars, defamation damages 5 million dollars, discrimination 300,000 thousand dollars, pain and suffering 5 million dollars, punitive damagess 100 million dollars, loss wages, back pay and future pay for disability. Due to negligence, refused compensation, defamation of character, discrimination, mental, pain and suffering from serious health and safety penalties from the employer. Asking 120,300,000.00 in damages.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 01/28/2023

Signature of Plaintiff



Printed Name of Plaintiff

Torio Holmes

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

EEOC

551-2022-04392

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Torio Holmes

Home Phone

(662) 809-4670

Year of Birth

Street Address

4235 Ohio Ave

Gulfport, MS 39501

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

GUNDERSON

No. Employees, Members

501+ Employees

Phone No.

(503) 972-5700

Street Address

4350 NW FRONT AVE

PORTLAND, OR 97210

Name

No. Employees, Members

Phone No.

Street Address

DISCRIMINATION BASED ON

Race

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

03/01/2022

Latest

03/23/2022

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

I was hired by Respondent on February 28, 2022. My most recent job title was Carpenter. I was subjected to disparate terms and conditions of employment in that I was sent to work in unsafe conditions without protective gear, while white coworkers were not. I was sickened by the unsafe working conditions and constructively discharged on or around March 23, 2022.

Respondent gave no reasons for its actions.

I believe I have been discriminated against due to my race, Black, in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

8-26-2022

Date

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Seattle Field Office
909 First Avenue, Suite 400
Seattle, WA 98104
(206) 576-3000
Website: www.eeoc.gov

DETERMINATION AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161 & 161-A)

Issued On: 01/19/2023

To: Torio Holmes
4235 Ohio Ave
Gulfport, MS 39501
Charge No: 551-2022-04392

EEOC Representative and email: BRYNE MOORE
Investigator
bryne.moore@eeoc.gov

DETERMINATION OF CHARGE

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

NOTICE OF YOUR RIGHT TO SUE

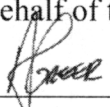
This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign-in to the EEOC Public Portal and upload the court complaint to charge 551-2022-04392.

On Behalf of the Commission

January 19, 2023

Date

 for
Elizabeth M. Cannon
Director

Cc: Gunderson LLC

Alex M Duarte, Alex.duarte@gbrx.com

Martin R Baker, Martin.baker@gbrx.com

Please retain this notice for your records.